

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

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THE ESTATE OF BIANCA DEVINS

Plaintiff,

v

ONEIDA COUNTY, ONEIDA COUNTY
DISTRICT ATTORNEY'S OFFICE, SCOTT
D. MCNAMARA, JOHN DOES 1-20,

Defendant.

**DECLARATION OF
KIMBERLY DEVINS IN
SUPPORT OF ORDER TO
SHOW CAUSE FOR FRCP
RULE 65 EX PARTE
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

--CV-- ()

Case No.: 6:21-CV-0802 (GTS/ATB)

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STATE OF NEW YORK) ss.:
COUNTY OF ONEIDA)

Kimberly Devins, being duly sworn, deposes and says:

1. I, Kimberly Devins, am over the age of 18 and of sound mind.
2. I submit this declaration in support of my Order to Show Cause for a Temporary Restraining Order and Preliminary Injunction.
3. I am the Administrator of the Estate of Bianca Devins, Plaintiff in the instant case.
4. I reside in Utica, New York.
5. Bianca Devins is my daughter.
6. On July 14, 2019 Bianca was murdered in our hometown of Utica New York.
7. Bianca was seventeen years old at the time.
8. Brandon Clark was the murderer of Bianca. He was 21 years old at the time.
9. I am aware that at the time of Bianca's death, Clark made multiple recordings of himself having sex with Bianca and then killing her.
10. I am aware that Clark took screenshots of the sex and the murder, and he posted some of the murder images onto social media.

11. I believe that Clark also had other nude images of Bianca on his devices and in his social media accounts.
12. I am further aware that Bianca's phone, which was seized at the time of her death by Utica Police Department contained nude images and videos depicting Bianca.
13. I believe UPD and/or OCDA did an extraction of the contents of Bianca's phone and presently possess the contents of her phone.
14. I believe the social media accounts of Bianca and Clark may have been subject to search warrants by Utica Police Department ("UPD") and Oneida County District Attorneys ("OCDA") and that further content depicting Bianca nude or having sex or being murdered is in the possession of UPD and OCDA.
15. I believe OCDA has recklessly and unlawfully disseminated content depicting Bianca that violates our federal child pornography laws.
16. As soon as I found out the content existed, in July 2019, I begged OCDA to not share the sex, nude, or murder content. Assistant District Attorneys Nolan and DeMellier both told me they would guard it with their life.
17. Two sets of documentary makers have informed me that they received material from OCDA that included images and videos of Bianca naked and having sex and being murdered.
18. I have had several conversations and communicated in writing that I want OCDA to stop sharing nude, sex, and murder content depicting Bianca. At various times they have defended their right to share the content and insisted (incorrectly!) it is legal for them to share it because "New York law trumps federal laws."
19. Even after telling me they would not share the content more, OCDA continued sharing it.
20. I believe OCDA is processing FOIL requests presently and sharing images of Bianca murdered, nude and having sex and revealing other personal material pertaining to her mental health and prior sexual history.

21. I believe OCDA is also sharing the contents of Bianca's phone and possibly her social media which has private information that she never would have wanted shared.
22. I'm shattered and suffering from the tragic death of my daughter. And it's 10000% times worse knowing that the very people who were supposed to be prosecuting her murderer are also exploiting her sexuality and privacy and sharing child pornography.
23. My daughter was a victim of child sexual exploitation when she was alive, at the time of her death, and now at the hands of the Oneida County District Attorney.
24. My daughter's dignity and privacy is threatened by unlawful sexual content and murder images being in circulation.
25. After Bianca died, Clark became martyred on several social media apps and Bianca's own social media accounts blew up – to the point that she has 166,000 followers on Instagram. When she was alive, she had 2,000 followers. People on the internet hate what Bianca stood for – a beautiful artistic girl – and they post horrific statements on social media and harass me and Bianca's little sister by sending us pictures of Bianca being murdered. One sender masturbated on an image of Bianca being murdered and screenshotted that.
26. There are conspiracy theories on TicToc, Discord, and dozens of YouTube videos about Bianca's death. The case was covered widely in the media and several documentaries have at various times been underway, including at A+E, 48 Hours, Peacock TV, MTV.
27. OCDA shared nude, sex, and murder content depicting Bianca with at minimum, producers at A+E and 48 Hours.
28. On November 23, 2020 I had a meeting with UPD and OCDA and they told me they would stop sharing content depicting Bianca. They also told me it wasn't child pornography because she is seventeen years old and the federal laws do not apply. They told me when it comes to child pornography New York law "trumps" federal law.

29. Via counsel, I sent letters on February 25, 2021 and March 22, 2021 urging OCDA and the City of Utica not to share murder or child pornography depicting Bianca.
30. Finally on March 22, 2021, OCDA ADA Sarah DeMellier told me via counsel they “will not be providing as part of any FOIL request the still images or video of Bianca and Brandon engaging in sexual intercourse or Brandon’s commission of the homicide.”
31. Yet on June 29, 2021 I was contacted by Clark’s Aunt that OCDA had sent YouTuber Alissa Tallman, AKA Antimone Layne, sex and murder videos depicting Bianca and that they were sent to Ms. Layne in response to a FOIL request.
32. People on the internet are hungering for more information about Bianca and solicit her nudes from one another. It is my desperate fear that OCDA will sooner or later disseminate the nude, death, and sexual content with individuals who post it online or that somebody will access the material through hacking.
33. I need a restraining order banning OCDA from further disseminating Bianca’s content because there will be irreversible injury to Bianca’s estate and her memory and her whole family if OCDA is not ordered. If OCDA is not restrained, there’s a high likelihood that nude, sex, and murder content of Bianca will be widely circulated on social media. This content is federally illegal to share or possess. My own requests asking OCDA to follow the law and basic decency have been inadequate. Time is of the essence because OCDA is presently responding to FOIL requests from people seeking Bianca’s content. I also need OCDA to contact everybody they shared the content and ensure it is not further distributed and that they do so without engaging in unlawful spoliation.
34. I was already living a mother’s worst nightmare by having my beautiful, talented, kind daughter tragically and horrifically murdered. Now to think that forever Bianca’s legacy and privacy will be shattered because of OCDA’s deliberate acts is too unbearable.

35. WHEREFORE, I desperately urge the court to grant my order to show cause for a restraining order and preliminary injunction.

Sworn to me before this

14th day of July, 2021.

Cora J Miller
Notary Public

Kimberly Devins

Kimberly Devins
Administrator of the Estate of Bianca Devins
Plaintiff

CORA J MILLER
Lic. #01M18295920
Notary Public-State of New York
Qualified in Onondaga County
COMM. EXR 01/13/2022